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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/625,930	07/23/2003	Charles E. Crutchfield	33293.5	9475
32300	7590 01/10/20		EXAM	INER
BRIGGS AND MORGAN P.A.			GOLLAMUDI,	SHARMILA S
2200 IDS CE 80 SOUTH 8'			ART UNIT	PAPER NUMBER
MINNEAPO	LIS, MN 55402		1616	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
Office Action Summary	10/625,930	CRUTCHFIELD ET AL.			
omee neadin dummary	Examiner	Art Unit			
The MAII INC DATE of this semantical	Sharmila S. Gollamudi	1616			
The MAILING DATE of this communicati Period for Reply	on appears on the cover sheet with	i uie correspondence address			
A SHORTENED STATUTORY PERIOD FOR WHICHEVER IS LONGER, FROM THE MAIL. - Extensions of time may be available under the provisions of 37 after SIX (6) MONTHS from the mailing date of this communica. If NO period for reply is specified above, the maximum statutor. - Failure to reply within the set or extended period for reply will, the Any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	NG DATE OF THIS COMMUNICA CFR 1.136(a). In no event, however, may a rep tion. y period will apply and will expire SIX (6) MONTH by statute, cause the application to become ABA	ATION. lly be timely filed HS from the mailing date of this communication. NDONED (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed or	n <u>23 July 2003</u> .				
2a) ☐ This action is FINAL . 2b)[<u> </u>				
3) Since this application is in condition for a	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice u	nder Ex parte Quayle, 1935 C.D.	11, 453 O.G. 213.			
Disposition of Claims					
4)⊠ Claim(s) <u>1-15</u> is/are pending in the application.					
4a) Of the above claim(s) is/are w					
5) Claim(s) is/are allowed.					
6) Claim(s) is/are rejected.		·			
7) Claim(s) is/are objected to.					
8) Claim(s) <u>1-15</u> are subject to restriction a	ind/or election requirement.				
Application Papers					
9) The specification is objected to by the Ex	kaminer.	•			
10) The drawing(s) filed on is/are: a)		y the Examiner.			
Applicant may not request that any objection	-				
Replacement drawing sheet(s) including the					
11)☐ The oath or declaration is objected to by	the Examiner. Note the attached	Office Action or form PTO-152.			
Priority under 35 U.S.C. § 119					
12) ☐ Acknowledgment is made of a claim for a a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority doc		119(a)-(d) or (f).			
2. Certified copies of the priority doc	uments have been received in Ap	plication No			
Copies of the certified copies of the certified copies of the certified copies.	ne priority documents have been r	eceived in this National Stage			
application from the International	Bureau (PCT Rule 17.2(a)).				
* See the attached detailed Office action for	r a list of the certified copies not re	eceived.			
Attachment(s)					
1) Notice of References Cited (PTO-892)	· —	ımmary (PTO-413)			
 Notice of Draftsperson's Patent Drawing Review (PTO-3) Information Disclosure Statement(s) (PTO-1449 or PTO Paper No(s)/Mail Date 		/Mail Date formal Patent Application (PTO-152)			

DETAILED ACTION

Claims 1-15 are pending in this application.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-6 drawn to a composition comprising canthardin, acetone and a flexible collodion, classified in class 424, subclass 78.02.
- II. Claims 7-15 drawn to a method of delivering a wart removing composition to the skin, classified in class 514, subclass 887.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, firstly invention II is broadly directed to treatment of warts by using any wart composition and is not directed to the specific wart composition claimed in invention I. Therefore, it is evident that the removal of warts may be accomplished by a materially different product, other than that claimed in invention I. For instance, the removal of warts may be accomplished by cryotherapy with liquid nitrogen, retinoic acid, caustic acids, etc. Further, invention I may be practiced in a materially different process such as an animal repellant (see DE 2440938). Therefore, the search for invention I and invention II are not co-extensive.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. Process claims that depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of In re Ochiai, In re Brouwer and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is 571-272-0614. The examiner can normally be reached on M-F (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharmila S. Gollamudi

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Examiner

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